

REMARKS

I. Disposition of the Claims

At the time of the Office Action, claims 1-37, 53 and 54 were pending in this Application. Claims 1-37, 53 and 54 were rejected. Claims 38-50 were cancelled due to earlier election/restriction requirements. Claims 1-37, 53, and 54 are pending. Applicant respectfully requests reconsideration and favorable action in this case.

II. Rejections under 35 U.S.C. § 102

Claims 1-6, 8-10, 12-14, 33, 35-37, 53 and 54 were rejected by the Office Action under 35 U.S.C. 102(e) as being anticipated by U.S. Pub. No. 2001/0011264 by Kawasaki (“Kawasaki”). “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Applicant respectfully traverses and submits the cited reference does not disclose, teach or suggest, either expressly or inherently, each and every element of independent claims 1, 53 and 54.

First, the independent claims require in part a personal base instance being constructed and arranged to *communicate with a user*. To address this limitation, the Office Action relies on Kawasaki’s discussion of a “Recognizer”—equating the Recognizer with the personal base instance. (Office Action at 3.) However, Kawasaki’s Recognizer is not the claimed “personal base instance” at least because the Recognizer does not communicate with a user. Instead, Kawasaki discusses the Recognizer as communicating with the Profiler. Kawasaki ¶ 30 (“... the Profiler 26 that receives the output from the real-time analysis of Recognizers 23.”). Kawasaki also illustrates the communications of the Recognizers as being directed to the Profiler, not the user. *See* Kawasaki Fig. 1 (depicting Recognizer 23 as directing output to Profiler 26, but not to the User); *see also id.* at Fig. 4 (depicting Recognizer 23 as directing output to Profiler 38, rather than to the User). Thus, Kawasaki fails to disclose the claim limitation.

Second, the independent claims also require in part a personal base server being constructed and arranged to *communicate with said personal base instance*. To address this

limitation, the Office Action relies on Kawasaki's discussion of a "Profiler"—equating the Profiler with the personal base server. (Office Action at 3 (stating that "'Profiler' [] communicates with the 'Recognizer'").) However, Kawasaki's Profiler is not the claimed "personal base server" at least because the Profiler does not communicate with a personal base instance. Kawasaki's Recognizer directs its communication to the Profiler, as discussed above, but the Profiler does not direct communication to the Recognizer. The Profiler generates a profile that "is the output from the system and can subsequently be used to make highly targeted Offers." Kawasaki ¶ 31. The Profiler does not direct communication to the Recognizer. *See* Kawasaki Fig. 4 (depicting Profiler 38 as directing output to Internet 18, but not to the Recognizer 23); *see also id.* at Fig. 1 (depicting Profiler 26 receiving input, but not directing output to Recognizer 23). Thus, Kawasaki fails to disclose the claim limitation.

For at least these reasons, Kawasaki fails to disclose each element of independent claims 1, 53 and 54. Applicant respectfully submits that these independent claims are allowable. Additionally, Applicant submits that dependent claims 2-6, 8-10, 12-14, 33 and 35-37 are allowable, as they depend from otherwise allowable base claims.

III. Rejections under 35 U.S.C. § 103

The rejection of dependent claims 11 and 15-32 will not be discussed individually herein, as each of these claims depends, either directly or indirectly, from an otherwise allowable base claim.

IV. No Waiver

All of Applicant's arguments and amendments are without prejudice or disclaimer. Additionally, Applicant has merely discussed example distinctions from the cited references. Other distinctions may exist, and Applicant reserves the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Office Action, Applicant does not acquiesce to the additional statements, such as, for example, any statements relating to what would be obvious to a person of ordinary skill in the art. The example distinctions discussed by Applicants are sufficient to overcome the anticipation rejections.

CONCLUSION

Applicant has now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicant respectfully requests reconsideration of claims 1-37, 53 and 54.

Applicant does not believe any fees are necessary with the submitting of this response. Should any fees be required, Applicant requests that the fees be debited from deposit account number 02-0383.

Respectfully submitted,

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